

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

-----X
**AGUDATH ISRAEL OF AMERICA, and WR
PROPERTY LLC,** : **Civil Action No. 3:17-cv-03226-
MAS-DEA**
Plaintiffs, :
v. :
**TOWNSHIP OF JACKSON, NEW JERSEY, et
al.** :
Defendants. :
-----X

DONNA M. JENNINGS, ESQ., of full age, under penalty of perjury, declares as follows:

1. I am a shareholder at Wilentz Goldman & Spitzer, P.A., co-counsel for Plaintiff WR Property, LLC in this litigation. I submit this Declaration in further support of Plaintiffs' Motion to Enjoin Defendant the Township of Jackson ("Defendant") from Continuing to Spoliate Evidence and for Sanctions, filed by Plaintiffs Agudath Israel of America and WR Property, LLC.

2. On or about March 26, 2019, I spoke with Pauline Tutelo, Esq., counsel for the Defendants, about certain Township emails concerning the destruction of documents wherein Ms. Tutelo requested I provide her a copy of the OPRA request served on the Township of Jackson and the response received as she was unaware of the situation at that time.

3. I immediately caused a copy of the OPRA request and response to be provided to Ms. Tutelo that day via an email exchange. See Exhibit A.

4. On or about April 8, 2019, I had a follow-up call with Ms. Tutelo wherein she advised that it was her belief that no documents had been destroyed. She again requested a copy of two emails from the Township regarding the destruction of documents – which my office immediately supplied to her again. See Exhibit B.

5. I requested that Ms. Tutelo confirm that this was in fact true. Ms. Tutelo stated that she would be confirming that documents had not been destroyed and that the Township of Jackson would be providing a certification to affirm that documents had not been destroyed. I requested that Ms. Tutelo provide the name of the individual who would be signing the certification from the Township of Jackson. See Exhibit B.

6. Ms. Tutelo did not provide the name of the individual. The Township of Jackson also never provided Plaintiffs with a certification prior to the filing of this Motion, as indicated through counsel it would, that no documents had in fact been destroyed, despite repeated requests.

7. On April 10, 2019, having received no certification or further information regarding the destruction of documents from Ms. Tutelo, our office filed an Order to Show Cause seeking to enjoin Defendant from Continuing to Spoliate Evidence and for Sanctions in the matter Oros Bais Yaakov High School v. Township of Jackson and Zoning Board of Adjustment of Jackson, Superior Court of New Jersey (“State Action”).

8. On April 11, 2019, during a hearing before the Hon. Marlene Lynch Ford, A.J.S.C. on the State Action, while Ms. Tutelo represented that documents had been converted to another format that was not as easily searchable as the format in which they were originally kept, Ms. Tutelo still failed to produce a certification from the Township of Jackson affirming that documents had not been destroyed.

9. On April 12, 2019, Plaintiffs filed the within motion.

DECLARATION

I hereby declare under penalty of perjury that the foregoing statements are true and correct pursuant to 28 U.S.C. §1746.

/s/ Donna M. Jennings
DONNA M. JENNINGS (DJ7790)

Dated: May 20, 2019

Exhibit A

Jennings, Donna

From: Jennings, Donna
Sent: Tuesday, March 26, 2019 11:24 AM
To: Tutelo, Pauline F.; 'Sieglinde Rath'
Subject: Jackson
Attachments: ATT00001.htm; ATT00002.htm; ATT00003.htm; Administration Records Retention 2009-2016.pdf; Council Records Retention 2012-2015.pdf; Oros Bais Yaakov, girls schools, and schools 1-1-14 through 1-1-15.pdf

Pauline
Here is the response below plus attachments.
Best regards,
Donna

----- Original message -----

From: Danielle Sinowitz <dsinowitz@jacksontwpnj.net>
Date: 3/26/19 10:20 AM (GMT-05:00)
To: rise up <riseupocean@gmail.com>
Subject: OPRA Response

Dear Rise Up:

Please accept this as my official response to your OPRA (copy attached). Your records requested have been destroyed under general correspondence as per approval from the NJDARM.
Attached please the Authorization from Records Disposal approved on 3/6/19(2009-2016) for Administration. Also Please find Authorization from Records Disposal approved on 1/31/18(2014), 5/15/19(2015) for Council.

Thank you!

Danielle Sinowitz

Clerk I
Jackson Township
95 West Veterans Highway
Jackson, NJ 08527
Tel: 732-928-1200 ext. 1203
Email: dsinowitz@jacksontwpnj.net

Exhibit B

Jennings, Donna

From: Chalfin, Risa
Sent: Tuesday, April 09, 2019 10:53 AM
To: 'Tutelo, Pauline F.'
Cc: Jennings, Donna
Subject: RE: Jackson / COBY

Pauline:

Am following up on this. Please let us know who will be providing the Certification and when we can expect to see a copy of the Certification.

Thanks
Risa

Risa M. Chalfin, Esq.

WILENTZ

—ATTORNEYS AT LAW—

Wilentz, Goldman & Spitzer, P.A.
90 Woodbridge Center Drive, Suite 900
Woodbridge, New Jersey 07095
T: 732.855.6120 | F: 732.726.6632
rchalfin@wilentz.com | www.wilentz.com
[LinkedIn](#) | Add My Mobile Business Card

From: Chalfin, Risa
Sent: Monday, April 08, 2019 4:17 PM
To: 'Tutelo, Pauline F.'
Cc: Jennings, Donna
Subject: RE: Jackson / COBY

Pauline:

Please see the attached OPRA request.

Risa

Risa M. Chalfin, Esq.

WILENTZ

—ATTORNEYS AT LAW—

Wilentz, Goldman & Spitzer, P.A.
90 Woodbridge Center Drive, Suite 900
Woodbridge, New Jersey 07095
T: 732.855.6120 | F: 732.726.6632
rchalfin@wilentz.com | www.wilentz.com
[LinkedIn](#) | Add My Mobile Business Card

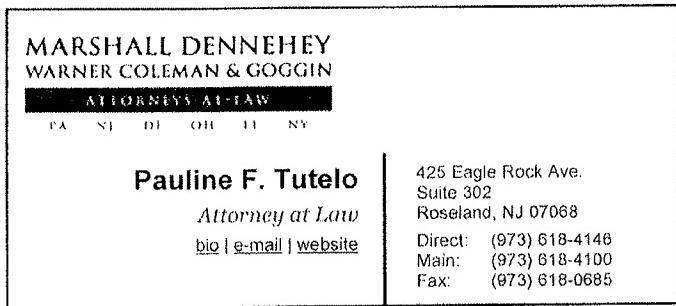
From: Tutelo, Pauline F. [mailto:PFTutelo@MDWCG.com]
Sent: Monday, April 08, 2019 4:15 PM
To: Chalfin, Risa
Cc: Jennings, Donna
Subject: RE: Jackson / COBY

Hi Risa:

Can you please send me the original OPRA request as well?

Thanks.

Pauline



This e-mail transmission and any documents, files or previous e-mail messages attached to it, are confidential and are protected by the attorney-client privilege and/or work product doctrine. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any review, disclosure, copying, dissemination, distribution or use of any of the information contained in, or attached to this e-mail transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify me by forwarding this e-mail to PFTutelo@mdwcg.com, or by telephone at (973) 618-4146 and then delete the message and its attachments from your computer.

From: Chalfin, Risa [mailto:RChalfin@WILENTZ.com]
Sent: Monday, April 8, 2019 3:57 PM
To: Tutelo, Pauline F. <PFTutelo@MDWCG.com>
Cc: Jennings, Donna <djennings@wilentz.com>
Subject: Jackson / COBY

Pauline:

As per your conversation with Donna, attached please find two emails from the Township regarding the destruction of documents.

Can you please provide us with the name of the individual providing the certification?

Thank you
Risa

Risa M. Chalfin, Esq.

WILENTZ

—ATTORNEYS AT LAW—

Wilentz, Goldman & Spitzer, P.A.
90 Woodbridge Center Drive, Suite 900